

**Income Tax (Singapore — Poland) (Avoidance of Double Taxation Agreement)
Order 1993**

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(CHAPTER 134, SECTION 49)**

**INCOME TAX (SINGAPORE — POLAND) (AVOIDANCE OF DOUBLE
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WHEREAS it is provided by section 49 of the Income Tax Act that if the Minister by order declares that arrangements specified in the order have been made with the Government of any country outside Singapore with a view to affording relief from double taxation in relation to tax under the Act and any tax of a similar character imposed by the laws of that country, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to tax under the Act notwithstanding anything in any written law:

AND WHEREAS by an Agreement dated the 23rd day of April 1993, between the Government of the Republic of Singapore and the Government of the Republic of Poland, arrangements were made amongst other things for the avoidance of double

taxation:

NOW, THEREFORE, it is hereby declared by the Minister for Finance —

- (a) that the arrangements specified in the Schedule have been made with the Government of the Republic of Poland; and
- (b) that it is expedient that those arrangements should have effect notwithstanding anything in any written law.

THE SCHEDULE

AGREEMENT BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND
THE GOVERNMENT OF THE REPUBLIC OF POLAND
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT
TO TAXES ON INCOME

The Government of the Republic of Singapore and the Government of the Republic of Poland,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

ARTICLE 1

PERSONAL SCOPE

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) in Singapore:

the income tax (hereinafter referred to as “Singapore tax”);

(b) in Poland:

- (i) the personal income tax (podatek dochodowy od osob fizycznych);
- (ii) the corporate income tax (podatek dochodowy od osob prawnych);

(hereinafter referred to as “polish tax”).

4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in this Article. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

- (a) the term “Poland” means the Republic of Poland and includes any area adjacent to the territorial waters of Poland which in accordance with international law has been or may be designated under the laws of Poland as an area in which Poland may exercise sovereign rights or jurisdiction in relation to such activities as may be permitted under international law;
- (b) the term “Singapore” means the Republic of Singapore;
- (c) the terms “a Contracting State” and “the other Contracting State” mean Poland or Singapore as the context requires;
- (d) the term “national” means any individual possessing the nationality of a Contracting State and any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;
- (e) the term “person” includes an individual, a company, a body of persons or any other entity which is treated as a person for tax purposes;
- (f) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term “company” means any body corporate or any other entity which is treated as a body corporate for tax purposes;
- (h) the term “tax” means Singapore tax or Polish tax as the context requires;
- (i) the term “international traffic” means any transport by ships, aircraft or boats operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft or boat is operated solely between places in the other Contracting State;
- (j) the term “competent authority” means:
 - (i) in the case of Poland, the Minister of Finance or his authorised representative;

- (ii) in the case of Singapore, the Minister for Finance or his authorised representative;

(k) the term “fixed base” means a permanent place in which professional activities are exercised.

2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who is a resident in a Contracting State for tax purposes of that Contracting State.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:

- (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him;
- (b) if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- (c) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (d) if he has an habitual abode in both States, he shall be deemed to be a resident of the State of which he is a national;
- (e) if the status of resident cannot be determined according to sub-paragraphs (a) to (d), the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. If its place of effective management cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

- (a) a place of management;

- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term “permanent establishment” also includes:

- (a) a building site, a construction, assembly or installation project which exists for more than twelve months;
- (b) the furnishing of services, including consultancy services, by a resident of a Contracting State through employees or other personnel in the other Contracting State for a period or periods aggregating more than three months within any twelve-month period.

4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if:

- (a) it carries on supervisory activities in that other Contracting State for a period or periods aggregating more than six months within any twelve-month period in connection with a construction, installation or assembly project or any combination of them which are being undertaken in that other Contracting State;
- (b) it carries on a business where the operations or part thereof consists of providing the services of public entertainers of the kind referred to in Article 17 in that other Contracting State.

5. Notwithstanding the provisions of paragraphs 1, 2, 3 and 4 of this Article the term “permanent establishment” shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, supply of information, scientific research or similar activities which have a preparatory or auxiliary character, for the enterprise.

6. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State, other than an agent of an independent status to whom paragraph 7 applies, shall be deemed to be a permanent establishment for the enterprise in the first-mentioned Contracting State if he has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts for or on behalf of the enterprise unless the exercise of such authority is limited to the purchase of goods or merchandise for that enterprise.